



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First named inventor: Ashley Davis
Application no.: 09/725,030 Amendments #3
Filed: 11/29/00
Title: Anti-S-phase tubulin ligands

Examiner: Lukton, D
Art Group: 1653

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AMENDMENT AND RESPONSE UNDER 37 C.F.R. # 1.111(a)

Mailed to: Box Amendment, Commissioner for Patents, Mail Stop AF, Arlington VA 22202.

July 23rd 2003

Dr. David Lukton
Commissioner of Patents
USPTO
Patent Applications
Washington DC 20231
Tel: 703-308-3213.

Ref: 09/725,030

Dear Dr. David Lukton:

In response to the Office communication dated 6-20-2003 with respect we submit the following:

Claim 6 and 7 – Please delete these claims because of 35 USC §112 as the examiner has explained clearly that these items are not patentable.

Claim 5 – BAABE is clearly stated in USP 6,294,695 which was not available prior to this application being submitted – so we request that this claim be deleted.

Claims 3-4 - Examiner rejects these claims based on "obvious-type double patenting". However, as stated by the examiner on p1-6 and top of p7, it is not possible to use a predict a therapeutic activity (in fungi, restenosis etc.). Similarly it is not possible to predict a drug's mechanism of action based on similar derivative's activity. IAABE was not published prior to Dec 1999 and therefore predictions of its mechanism of action cannot be made based on the mechanism of action of BAABE reported in Feb 1999 in 6,294,695. The Novel Mechanisms are clearly pointed out in Neoplasia 1 (6) p.498-507 and they are part of the basis for the present application. This is contrary to the statement made on p7 of the recent Office Action (5 lines up from the bottom) that the activities of the compound structure described in USP 6,294,695 are inherent in them. Obviously this cannot be true of IAABE because that would be based on a prediction. The prediction being M-phase arrest (based on BAABE) which is not the case for IAABE which causes a G1/S arrest. We request that these claims remain in the application.